

**UNITED STATES OF AMERICA
FEDERAL MEDIATION AND CONCILIATION SERVICE
VOLUNTARY LABOR ARBITRATION PROCEEDING**

In The Matter of Arbitration Between:

THE CITY OF NEW PHILADELPHIA,

EMPLOYER,

and

FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.,

UNION.

**GRIEVANT: DAVID CIMPERMAN
FMCS CASE NO.: 020124-037012-6**

**Arbitrator's Opinion and Award
Arbitrator: Dr. David M. Pincus
Date: December 20, 2002**

Appearances

For the Employer

**Robert J. Tscholl
Det. Capt. Michael Goodwin
Jennifer Arnold
David Hipp
Det. Lt. Orvis Campbell
Amanda Robin
David Blackwell
Jason Ryan
Philip Frymyer
Jeff Urban**

Position

**Attorney
MPPD
Attorney
Assistant Prosecutor
Tuscarawas Sheriff's Dept.
Witness
Attorney
Witness
Witness
Chief of Police**

For the Union

**David Cimperman
Michael Piotrowski
James Boomer
Sheldon Demattio
Rocky Dusenberry**

**Grievant
General Counsel FOP/OLCI
Staff Representative
Captain
Traffic Officer**


17. The Undisputed Nature of a Potential Armed Burglar

Finally, one of the undisputed facts in this case, was that the grievant arrived on the scene thinking that an armed break in had occurred for drugs. And it is also undisputed that the burglars actually got into the basement through a locked door. So it was not unforeseeable, in this Arbitrator's view, that access to the basement through the door was unrestricted because at least two others got through. And this Arbitrator does not view it as unusual that the grievant could not recite, chapter and verse, a complete and detailed description of the lock in circumstances where the everyone's lives were potentially in danger.

VII. The Reward

The Union's grievance is sustained. The grievant shall be reinstated with full back pay and benefits as a captain retroactively to August 23, 2001. No overtime shall be added to the backpay. Interim earnings shall be deducted from the backpay. The Arbitrator retains jurisdiction over any remedy disputes.

Moreland Hills, Ohio
December 20, 2001



Dr. David M. Pincus